

<b>Notice of Allowability</b>	Application No.	Applicant(s)
	09/761,492	SPENCER, CHRISTOPHER J.
	Examiner	Art Unit
	Cheukfan Lee	2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to an amendment filed June 21, 2004.
2.  The allowed claim(s) is/are 2, 3, 7, 8, 10-20, now renumbered 1-4, 6, 5, and 7-15, respectively.
3.  The drawings filed on 16 January 2001 are accepted by the Examiner.
4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None
 of the:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of
 Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.



1. All pending claims 2, 3, 7, 8, 10-20 are allowed. Claims 2, 7, 11, 13, and 16 are independent.
2. The following is an examiner's statement of reasons for allowance:

Claim 2 has been rewritten in independent form to include all limitations of independent claim 1. The previous Office action dated March 10, 2004 indicates that claim 2 would be allowable if rewritten in independent form to include all limitations of claim 1. Claim 3 depends upon claim 2.

Reasons for allowance for claims 2 and 3 were given in the previous Office action. The reasons are repeated below.

Claims 2 and 3 are allowable because none of the prior art of record, including the closest prior art references Asano (U.S. Patent No. 4,623,938) and Newell (U.S. Patent No. 6,621,599), discloses leaving a space between the document and the backer or document cover, in the step of positioning the document or book. The examiner found no motivation to hold the cover of the closest prior art still to leave a space between the cover and the document as claimed in claim 2. Claim 3 depends upon claim 2.

Claim 7 has been rewritten in independent form to include all limitations of independent claim 1 and the intervening claims 4-6. The previous Office action indicates that claim 7 would be allowable if rewritten in independent form to include all limitations of claim 1 and intervening claims 4-6. Claim 8 depends upon claim 7.

Reasons for claims 7 and 8 were also given in the previous Office action. The reasons are slightly modified and repeated below.

Claims 7 and 8 are allowable over the prior art of record because in the scanner of Asano in view of Newell discussed (for now canceled claim 6) in the previous office action, which scanner is the document feed type, it is not seem how it is possible that the width detection backer (document cover) is "selectively" positioned out of the field of view of the optical element in the document feed scanner as claimed in claim 7. None of the prior art teaches a width detection backer that is selectively positioned out of the field of view of the optical element of a document feed type scanner, in combination with other limitations of amended claim 7. Claim 8 depends upon claim 7.

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Claim 11 has been rewritten in independent form to include all limitations of independent claim 1 and the intervening claim 9. The previous Office action indicates that claim 11 would be allowable if rewritten in independent form to include all limitations of claim 1 and intervening claim 9. Claim 10 and 12 depend upon claim 11.

Reasons for claims 11, 10 and 12 were also given in the previous Office action. The reasons are slightly modified and repeated below.

Claims 11, 10 and 12 are allowable over the prior art of record because none of the prior art discloses an additional backer in addition to the width detection backer (corresponding to the document cover 3 of Asano) and selectively positioning the additional backer in the field of view of the optical element as claimed in claim 11.

Claims 10 and 12 depend upon claim 11.

Please note that although previous claims 9 and 7 (both now canceled) both recite the same limitation, and claim 9 was rejected but claim 7 was objected to as containing allowable subject matter, the examiner would like to explain that claim 7 limitation in combination with limitations of all claims upon which claim 7 depended could not be rejected using Asano and Newell, but claim 9 limitation in combination with claim 1 upon which claim 9 depended was met by Asano in view of Newell.

Claims 13-15 were indicated allowed in the previous Office action. Reasons for allowance were also given in the previous Office action. The reasons are repeated below.

Claims 13-15 are allowable because the prior art of record, including the closest prior art Asano and Newell, does not teach a width detection backer formed by a portion of the outer surface encompassing a first segment of the circumference of the outer surface of a substantially cylindrical casing of an apparatus for a scanner, the width detection backer portion and the other portion of the outer surface being of contrasting colors, as claimed in claim 13. Claims 14 and 15 depend upon claim 13.

Claims 16-20 were also indicated allowable in the previous Office action, and the reasons given in the previous Office action are repeated below.

Claims 16-20 are allowable because none of the prior art of record teaches in a document scanner a driver operatively connected to selectively position a width detection backer and the optical element relative to each other so that the width

detection backer is simultaneously in the field of view of the optical element and out of the focal plane of the optical element, as claimed in claim 16. Claims 17-20 depend upon claim 16.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheukfan Lee whose telephone number is (703) 305-4867. The examiner can normally be reached on 9:30 a.m. to 6:00 p.m., Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward L. Coles can be reached on (703) 305-4712. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Cheukfan Lee  
September 17, 2004

  
cheukfan lee